IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

C .W.P.No.9662 of 2000

DATE OF ORDER: 8.3.2007

Sham Lal and Others

...Petitioner(s)

Versus

Housing Board Haryana and Others

....Respondent(s)

CORUM : HON'BLE MR. JUSTICE M.M. AGGARWAL

.*.*.*.

Present: Mr. Arun Nehra, Advocate.

Mr. Pardeep Bhandari, Advocate.

M.M. AGGARWAL,J

Petitioners, who were allottees of MIG Houses in Sector 11, Panchkula have challenged notice copy Annexure P-7 dated 6.6.1997 whereby each of the allottee was directed to deposit a sum of Rs.45,365/- upto date 30.6.1997. Challenge is also to copy Annexure P-1 of Chairman, Housing Board, Haryana whereby appeal filed by the allottees against this notice dated 6.6.1997 was dismissed. Further Board of resolution dated 3.5.2000 copy Annexure P-14 had been challenged, a notice dated 10.11.1999 and further notice dated 5.7.2000 copy Annexure 17 were also challenged. The amount was demanded along with 12 % interest from 1.7.1997 onwards.

It appears that earlier writ petition bearing CWP No.1862 of 1984 was filed in which this Court vide judgment dated 16.10.1984 had held that the respondents shall be liable to furnish the details of expenditure as far as enhanced payments are concerned and if allottees feel not satisfied then they shall be at liberty to approach the civil Court. Thereafter, a civil suit was filed, which was decreed ex parte and vide order dated 27.1.1987. Defendants-respondents were directed to furnish the details of the expenditure incurred by the defendants in construction of the given houses.

Vide copy Annexure P-3, it had been held that defendants i.e respondents shall not be entitled to recover the enhanced price unless the said accounts are furnished. An application for setting aside ex parte judgment was dismissed. Thereafter, a demand had been raised showing that the cost of the house was finalized to be Rs.80500/- whereas the tentative cost was Rs.55,500/-. Allottees were asked to take Rs.25060/- either in lump sum within 30 days from the date of issue of the letter or 12 % interest within one year but that letter was withdrawn on 27.8.1987. Thereafter, it appears that the respondents kept quite for 10 years and then raised demand vide letter dated 6.6.1997 vide copy Annexure P-7.

It is now admitted case of both the parties that the enhanced price will come to Rs.14494/-. The details of cost of construction etc had been given in copy Annexure P-8. As far as liability to pay the enhanced price of Rs.14494/- is concerned, it is now not disputed by the petitioners.

Counsel for the petitioners had argued that the respondents had issued letter on 6.7.1987 copy Annexure P-5. Then that letter was withdrawn vide order dated 27.8.1987 copy Annexure P-6 and thereafter respondents had been keeping quite for 10 years and raised the demand and furnished details of the accounts only vide letter dated 6.6.1997 copy Annexure P-7. It was argued that under these circumstances, respondents will not be entitled to any interest. It was pointed out that the respondents in this case were charging compound interest to which they were not entitled at all. A judgment of this Court reported in Gian Inder Sharma v. Haryana Urban Development Authority, 2002(2) PLJ 469 was relied that no compound interest could be charged on delayed payment of additional price and that only simple interest could be charged.

In this case, in pursuance of order dated 29.11.2006 of this Court, affidavit of Sh. R.K. Chaudhary, Secretary, Housing Board, Haryana had been filed in which further details had been given and it was shown as to why the respondents were charging interest @ 11.5 %. It had been stated that the respondents are taking loan from HUDCO and HUDCO was charging interest @ 10.5 % and 11.5 %, which was dependent upon the rate of interest when the instalment was released by HUDCO. It had been stated that HUDCO was charging interest on quarterly basis and therefore the respondent-Board was to charge interest from the rate of quarterly basis.

Here is a case, where construction appears to have been completed in the year 1980 and possession had been given but there had been some disputes regarding cost of construction. There had been arbitration also. When excess payments were being demanded, petitioners had asked for accounts and details of expenditure incurred, which was furnished only in the year 1997. The principle amount due over and above the tentative cost of construction as per details furnished, was Rs.19494/-.

This petition was filed in the year 2000 i.e immediately after the request of the petitioners had been declined by the Board of Directors of the respondents on 3.5.2000. Some of the petitioners had even withdrawn the petition and their names were deleted.

In the facts and circumstances of the case, where the details of expenditure had been furnished only in 1997 even in spite of order of this Court in 1984 and that passed by the Civil Court on 27.1.1987 and demand had been raised only in 1997, it will be appropriate that only 11.5 % simple interest is charged from the petitioners on the principle amount of Rs.19494/-, which was difference of cost incurred and that of tentative cost.

This petition is accepted to the extent that simple interest of 11.5 % shall be chargeable from the year 1987 till the date the amount of Rs.19494/- had been paid by each of the allottee/petitioners.

March 08, 2007 (M.M. AGGARWAL)
manoj JUDGE